

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>GEORGE RESSLER</b>	§	
	§	
<b>Plaintiff,</b>	§	
	§	
	§	<b>NO. 4:21-CV-03486</b>
<b>v.</b>	§	
	§	<b>JURY DEMANDED</b>
<b>ABC Imaging of Washington, Inc.</b>	§	
	§	
<b>Defendant.</b>	§	

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

COMES NOW Plaintiff GEORGE RESSLER (“Ressler”), pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, moves for a Default Judgment against Defendant, ABC Imaging of Washington, Inc., (“ABC” or “Defendant”) and would respectfully show as follows:

**UNDISPUTED FACTS**

1. The Plaintiff filed a complaint seeking affirmative relief on October 22, 2021. Dkt. 1. Plaintiff’s complaint sought damages under the Fair Labor Standards Act of 1938 (FLSA) for the Defendant’s failure to pay federally mandated overtime wages as provided by the FLSA, 29 U.S.C. §216(b). *Id.* Plaintiff also sought damages for Defendant’s decision to cut his pay in half while he was classified as a salaried employee. *Id.*
2. The summons and complaint were properly served on the Defendant on December 2, 2021. Dkt. 6.
3. ABC has failed to plead or otherwise defend as required by law in response to the complaint.
4. The Defendant, ABC, hired Plaintiff, determined and controlled his rate and method of

pay, controlled and set his work schedule, and controlled his terms and conditions of employment. Plaintiff's Declaration, Exhibit "A" at ¶ 13.

5. Ressler starting working for ABC in 2007 (and continues to work for ABC) in the position of finisher, which involves laminating, bookbinding, printing, mounting prints on foam boards, creating three-ring bound products, among other tasks. He was appropriately paid by the hour and paid overtime. In 2014 or 2015 ABC improperly changed his classification to exempt even though he was still performing the duties of a finisher, with the added tasks of moving and installing equipment and making deliveries to Louisiana. Even though he was salaried, ABC cut Ressler's pay in half beginning on April 1, 2020. On November 16, 2020, ABC reclassified him as hourly. Ressler seeks overtime pay from October 22, 2018 until March 1, 2020, and the salary he should have received from April 1, 2020 until he was reclassified as hourly on November 16, 2020.

6. FLSA coverage exists for Ressler's claims under both the individual coverage and the enterprise coverage provisions of the FLSA. See Exhibit "D," memorandum of law at 2-4.

7. Plaintiff calculates that he is owed \$12,778.69 in unpaid overtime wages over three years because the Defendant willfully violated the FLSA, Dkt. 1 ¶14, and is entitled to an additional equal amount as liquidated damages. Dkt. 1 ¶19. Plaintiff also seeks \$5,557.00 in unpaid salary. Dkt. 1 ¶23 & Exhibit "A" at ¶¶ 10-12.

8. The Defendant is not currently in military service (*See* Exhibit "A" at ¶15).

9. The Defendant did not file an answer or other required pleading.

10. The Defendant did not take any action that indicated the Defendant's intent to defend the suit.

11. The time allowed to file a response to the suit expired on December 23, 2021.

12. In support of Plaintiff's request for entry of final judgment, Plaintiff attaches the following which are incorporated by reference:

- a. Declaration of George Ressler, attached as Exhibit "A", together with Exhibits A-1 to A-6;
- b. Complaint filed on October 22, 2021, attached as Exhibit "B";
- c. Affidavit of Service, attached as Exhibit "C";
- d. Memorandum of Law, attached as Exhibit "D";
- e. Declaration of Robert J. Filteau, attached as Exhibit "E".

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully requests that the Court enter default against Defendant, ABC Imaging of Washington, Inc. and enter a final judgment against ABC Imaging of Washington, Inc. in the amount of \$31,114.38, plus attorney's fees of \$9,553.50 and costs totaling \$477.00.

Respectfully submitted,

THE LAW OFFICES OF FILTEAU & SULLIVAN, LTD., LLP

/s/Robert J. Filteau

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GEORGE RESSLER

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of Plaintiff's Motion for Default Judgment and all attachments have been forwarded to Defendant's registered agent for service of process by certified mail, return receipt requested, and by first class mail on this the 14th day of January, 2022, as follows:

Corporation Service Company d/b/a  
CSC-Lawyers Incorporating Service Company  
Registered Agent for ABC Imaging of  
Washington, Inc.  
211 E. 7<sup>th</sup> Street  
Suite 620  
Austin, Texas 78701-3218

*/s/Robert J. Filteau*  
Robert J. Filteau